

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

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**JOHN E. SHAVERS and B.G. PERRY**

**PLAINTIFFS**

**V.**

**CASE NO. 2:05CV202**

**DWAYNE M. MURRAY et all**

**DEFENDANTS**

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**ORDER**

This cause comes before the Court on the motion of defendants Dwayne M. Murray and Michael A. Crawford to dismiss the pro se plaintiffs' suit against them pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction [23-1; 48-1]. Murray and Crawford were respectively the bankruptcy trustee and court-approved counsel in plaintiff John E. Shavers involuntary bankruptcy proceedings in the U.S. Bankruptcy Court for the Southern District of Mississippi, Gulfport Division, as Case NO. 03-55729. Murray and Crawford argue that subject matter jurisdiction is lacking because the plaintiffs failed to seek leave of the appointing court (i.e. the Bankruptcy Court for the Southern District of Mississippi) prior to filing the instant suit, as is required by the Barton doctrine. See Barton v. Barbour, 104 U.S. 126, 129, 26 L.Ed. 672 (1881)(requiring permission from appointing court before filing of suit against court-appointed receiver or comparable functionary). The plaintiffs argue that the Barton doctrine is not applicable in this case because they are suing Murray and Crawford both individually and in their official capacity and because their complaint is premised in part on the fact that the Bankruptcy Court lacked jurisdiction over them to begin with. Be that as it may, the plaintiffs offer no support for their theory that this Court may collaterally attack the jurisdiction of one of its sister courts in an ongoing action, and the Court is persuaded that the Barton doctrine applies in this case.

ACCORDINGLY, it is hereby ORDERED:

1. that the motion to dismiss for lack of subject matter jurisdiction [23-1; 48-1] is GRANTED; and
2. that defendants Dwayne M. Murray and Michael A. Crawford are dismissed from this case without prejudice.

This is the 12<sup>th</sup> day of June, 2006.

/s/ Michael P. Mills  
UNITED STATES DISTRICT JUDGE